HIGH COURT OF UTTARANCHAL AT NAINITAL
Writ Petition No. 3214 (M/S) of 2001
Old CMWP No. 19963 of 1995

Sri Arjun Singh S/O Sri Karan Chand,
Resident of village Dheenam Khera, Tehsil Gadarpur,
District Nainital.

….**Petitioner**

Vs

1. The State of Uttar Pradesh through the Collector Nainital.
2. The I Additional District Judge, Nainital.
3. The Prescribed Authority / Additional Sub- Divisional Officer Kichha at Rudrapur, Nainital.
4. Sri Chandi Ram son of Sri Hori Ram, Resident of village Dheenam Khera.

…….Respondents

Sri Nand Prasad, learned Standing Counsel for the respondents No. 1-3.

Date May 25, 2006.
PC: Hon'ble B.S. Verma, J.

This writ petition has been filed for quashing the impugned orders dated 6-12-1993 (Annexure No. II) and dated 19-4-1995 (Annexure No. III) to the writ petition passed by the Prescribed Authority and the appellate court under the provisions of the U.P. Act No. XXII of 1972, whereby the order of eviction of the petitioner was passed by the Prescribed Authority and the appeal preferred under Section 9 of the said Act too was dismissed by the I Additional District Judge, Nainital vide judgment and order dated 19-4-1995.

Relevant facts giving rise to the present writ petition are that on being satisfied with the *challani* report submitted to the Prescribed Authority that the petitioner was in illegal occupation over the public utility land, notice to show cause under Section 4(1) of the said Act was issued against the petitioner as to why he be noted evicted from the public premises. The petitioner resisted the proceedings by filing his written objection. However, the petitioner had contended that he was ready for regularization of his possession. The Prescribed Authority after recording the evidence

led by the parties passed an order of eviction against the petitioner vide impugned order dated 6.12.1993. Aggrieved by the said order, the petitioner preferred Eviction Appeal No. 81 of 1993 before the Additional District Judge. The appellate court did not find favour with the contention of the petitioner and ultimately, the appellate court dismissed the appeal. Hence, the petitioner has come up before this Court in writ petition.

I have heard the submissions of the learned Standing Counsel appearing on behalf of the respondents-State and perused the record. The petitioner was not served and he was not represented before this Court.

At the outset, it may be mentioned that this Court vide judgment delivered today, i.e. on 25-5-2006 in Writ Petition No. 3235 (M/S) of 2001 Krishna Kant Vs. I Additional District Judge Nainital and others along with 42 other writ petitions have already considered the controversy involved in the present writ petition. All the 43 writ petitions preferred by different petitioners were allowed by that common judgment and it was held that the provisions of the U.P. Public Premises (Eviction of Unauthorised Occupants) Act, 1972 were not applicable to the agricultural land and it was open to the State to proceed for eviction of the petitioners under the provisions of the U.P. Zamindari Abolition and Land Reforms Act/**KUZA** Act and other allied laws in force. It was also observed therein that the petitioners may also get their title declared by filing suit under Section 229-B of the Z.A. & L.R. Act/KUZA Act, provided they establish their stand before the Revenue Court. The learned Standing counsel fairly conceded that the present petition is squarely covered by the said judgment.

In view of the fact that this Court has already decided as many as 43 similar writ petition by a common judgment today, there is no need to repeat the same material again in the case at hand. The present writ petition is fully covered by the judgment passed in Writ Petition No. 3235 (M/S) of 2001, Krishna Kant Vs. I

Additional District Judge Nainital and others along with 42 other writ petitions decided by this Court on 25-5-2006 itself. This writ petition deserves to be allowed on merit in terms of the said judgment.

The present writ petition stands allowed in terms of the judgment passed by this Court in Writ Petition No. 3235 (M/S) of 2001, Krishna Kant Vs. I Additional District Judge Nainital. No order as to costs.

(B.S. Verma, J.)

RCP